

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Ellen Gavin
Marshall Johnson
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Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition from Reliant Energy
Minnegasco (REM) for Approval of an
Affiliated Interest Agreement Between REM
and Reliant Energy Services, Inc. (RES)

ISSUE DATE: March 20, 2003

DOCKET NO. G-008/AI-02-1572

ORDER APPROVING AGREEMENT AND
REQUIRING COMPLIANCE FILING

PROCEDURAL HISTORY

On September 20, 2002, Reliant Energy Minnegasco (REM)¹ filed a request for approval of an affiliated interest agreement between REM and Reliant Energy Services, Inc. (RES) for a Firm Natural Gas Agreement for System Supply for the time period of November 1, 2002 through October 31, 2003.

On November 20, 2002, the Department of Commerce (DOC) filed comments recommending approval of the agreement with stipulations.

On November 20, 2002 the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) recommended approval of the agreement with additional filing requirements.

On December 2, 2002 REM filed reply comments agreeing to provide information on an informal basis to the DOC and to RUD-OAG for any contracts entered into with RES for gas supplies through the 2003-04 heating season.

This matter came before the Commission on February 13, 2003.

FINDINGS AND CONCLUSIONS

I. The Agreement

The Agreement for which REM requested approval is a Base Load Firm Natural Gas Agreement for System Supply for the period November 1, 2002 through October 31, 2003 between REM (a Division of Reliant Energy Resources Corp.) and Reliant Energy Services, Inc. , an affiliate of REM. The Agreement was entered into on August 21, 2002.

¹ Now CenterPoint Energy Minnegasco (for convenience referred to as REM herein).

The contract contemplates REM purchasing 1,530,000 MMBTU of fixed term fixed price gas supply for the upcoming year, in order to lessen the volatility of wholesale gas costs experienced over the last few years. This purchase is one of numerous fixed rate purchases by REM and this package of firm base load supply is one of six fixed rate base load supply packages which will be used to meet the base load requirements for year two of the No Surprise Bill program. As of the date of filing, this is the only base load firm supply package for which an affiliate company has been the successful bidder.

This purchase was made through a competitive bidding process. REM solicited bids from 27 vendors with 7 vendors submitting bids. The bid solicitation, receipt and acceptance process reflected ongoing discussions with the DOC and the RUD-OAG. The purchase met the requirement that in order for an affiliate to win the bid, the affiliate must be at least one-quarter of one percent (.25%) lower than the next lowest bid.

II. Background

Although REM acknowledged the affiliate relationship between REM and RES as of September 1, 2002, the time of REM's filing, REM's filing indicated that as of October 1, 2002, RES would no longer be an affiliate of REM. REM would become CenterPoint Energy Minnegasco, a part of the CenterPoint Energy family. CenterPoint Energy would be a non-affiliated, independent company wholly separate from Reliant Resources Corp., of which RES would be a part.²

III. Position of the Parties

A. DOC

The DOC concluded that the agreement was reasonable and consistent with the public interest and recommended that the proposed agreement be approved. However, the DOC indicated concern with the Company's relationship with its former affiliates on a going forward basis.

The DOC argued that CenterPoint Energy and Reliant Resources might not technically be affiliates but that there certainly are relationships between former Reliant Energy employees and board members. The DOC argued that to ensure that the process of selecting a natural gas supplier continues to be competitive, the DOC would want to review certain information regarding the bid process when REM enters into a natural gas supply contract with one of its former affiliates.

Specifically, the DOC recommended a compliance filing by the Company that included REM's bid solicitation and selection information used to select the most economic natural gas contract. The DOC recommended that the information be provided quarterly for the years 2003-04 and 2004-05.

² Reliant Energy, Inc. spun-off Reliant Resources, Inc. to house the non-regulated operations of Reliant Energy, including RES. The regulated operations of Reliant Energy, Inc. became CenterPoint Energy, Inc.

B. RUD-OAG

The RUD-OAG recommended approval of the agreement. Further, RUD-OAG argued that the Commission should require REM to file affiliated interest agreements when it contracts with one of its former affiliates until 2004-2005. RUD-OAG argued that CenterPoint Energy and Reliant Resources appear to be interrelated in several ways and share enough common interests to warrant this requirement, at least for the present. Such a filing would dispel any perception that improper influence was being exercised.

If the Commission does not ask for affiliated interest filings from CenterPoint Energy Minnegasco (Minnegasco) for transactions with former affiliates, RUD-OAG recommended that the Commission require Minnegasco to adequately document its bids and its selection of the lowest cost source for retail customer use, as well as require that only one of a number of bids, the number to be determined by the Commission, can be from a former affiliate.

C. REM

REM agreed that it would provide certain information to the DOC and the RUD-OAG if it entered such contracts in the future. It agreed to provide such information on an informal basis for the current and next heating season (ending March 31, 2004).

However, REM disagreed with the DOC's characterization of such an informal process as compliance filings. It argued that the informational filing that it has agreed to should not be considered a compliance filing since it has no relationship to the affiliated interest filing herein and would not be assuring compliance with any Commission order or rule.

In its filing, REM stated that it would continue to report the volumes and costs associated with the contract herein in its monthly purchased gas adjustment (PGA) filing and its annual automatic adjustment (AAA) report through the contract's completion on October 31, 2003.

IV. Commission Action

The Commission will approve the affiliated interest agreement. The agreement is the result of the selection of the least cost bid based on a competitive bidding process and is reasonable and in the public interest.

The Commission will require REM to separately identify its purchases from RES under this agreement in its monthly PGA reports and AAA reports, as REM stated it would do.

Further, the Commission agrees with the DOC that in order to ensure a continuing open and competitive process in the selection of natural gas suppliers, CenterPoint Energy Minnegasco (formerly REM) should make compliance filings quarterly, through June 30, 2005, whenever the Company enters into a natural gas supply agreement with one of its former affiliates. The Commission will so order.

The Commission recognizes the potential for continuing involvement between REM and its former affiliates; therefore, in order to ensure that ratepayers have some protection from any potential natural gas contracting abuses, the Commission will require these compliance filings.

The compliance filings should include the bid solicitation and selection information used to select the most economic natural gas contract.

ORDER

1. The Affiliated Interest Agreement between REM and RES is hereby approved.
2. REM shall separately identify its purchases from RES under this Agreement in its monthly PGA reports and the AAA report.
3. REM shall make quarterly compliance filings (due 30 days after the end of the quarter) through June 30, 2005 whenever REM enters into a natural gas supply agreement with one of its former affiliates.
4. The compliance filing made under paragraph 3, above, shall include REM's solicitation and selection information used to select the most economic natural gas contract.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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